

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

O.J.APPEAL No 33 of 1993

And

Civil Application No.61 of 1993

And

COMPANY APPLICATION No 785 of 1993

In

Company Application No.47 of 1989

In

Company Petition No.32 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA and

MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?  
1 to 5 No
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SAURIN VIKRAMBHAIPALKHIWALA

Versus

O.L. OF NEW JAGAT TEXTILE MILLS P.LTD

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Appearance:

1. O.J.APPEAL No. 33 of 1993  
MR SN SOPARKAR for appellants  
MR ASHWIN L SHAH for Respondent No. 1  
Ms.H.R.Desai for  
MR GN SHAH for Respondent No. 2  
No one appears for respondents Nos.3 and 4

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CORAM : MR.JUSTICE M.R.CALLA and

MISS JUSTICE R.M.DOSHIT

Date of decision: 16/09/98

ORAL JUDGEMENT

This O.J. Appeal is directed against the order dated 3.11.93 passed by the Company Judge in Company Application No.785 of 1993 in Company Application No.47 of 1989 in Company Petition No.32 of 1985. The winding up proceedings are going on. The grievance of the present appellants is that they should be joined as parties in the Company Application No.47 of 1989 and their application for that purpose has been rejected.

We have heard learned counsel for the appellants as also the learned counsel for Official Liquidator and the respondent No.2. The learned counsel for the Official Liquidator has pointed out that the appellants are only trespassers. Even if that be so, they are required to be heard on the question as to whether they are trespassers or not. Appellants are the family members of Vikrambhai Palkhiwala and it is observed by the Company Judge himself in the impugned order that Vikrambhai was allowed to sit in the shop and in the Company Application No.47 of 1989 he was joined as a party. In such fact situation, whether the present appellants have any individual right to occupy the premises or not, they are required to be heard and, therefore, they are entitled to be joined as parties in Company Application No.47 of 1989. Consequently the order dated 3.11.93 is hereby quashed and set aside. The O.J. Appeal is allowed.

Consequently the Application of the present appellants being Company Application No.785 of 1993 is allowed and they are allowed to be arrayed as respondents in Company Application No.47 of 1989.

In view of the orders passed, as aforesaid, the Civil Application No.61 of 1993 does not survive and the same stands disposed of accordingly. Rule is hereby discharged. Stay order stands automatically vacated. No order as to costs.